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HUMAN RIGHTS COMMITTEE

Forty-second session

SUMMARY RECORD OF THE 1090th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 25 July 1991, at 3 p.m.

Chairman: Mr. POCAR

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Annual report of the Committee to the General Assembly through the Economic and Social Council under article 45 of the Covenant and article 6 of the Optional Protocol

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FICHE

The meeting was called to order at 3.20 p.m.

ANNUAL REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY THROUGH THE ECONOMIC AND SOCIAL COUNCIL UNDER ARTICLE 45 OF THE COVENANT AND ARTICLE 6 OF THE OPTIONAL PROTOCOL (agenda item 6) (CCPR/C/42/CRP.1 and Add.1-24) (continued)

Chapter III.B Consideration of reports submitted by States parties under article 40 of the Covenant (continued)

1. The CHAIRMAN supported by Mr. FODOR and Mr. MAVROMMATIS, suggested that the heading of the final part of each section of chapter III.B ("General observations") should be replaced by "Concluding observations".

2. It was so decided.

Finland (CCPR/C/42/CRP.1/Add.4)

Paragraphs 1-12

3. Paragraphs 1-12 were adopted.

Paragraph 13

4. Miss CHANET pointed out that the words "of Finland" had been omitted after the word "representative" in the last phrase.

5. Paragraph 13, as amended, was adopted.

Paragraphs 14-27

6. Paragraphs 14-27 were adopted.

Paragraph 28

7. Mr. ANDO (Rapporteur) proposed the insertion in the second sentence, after the word "other", of the words "places and", since the reference was rather to locations than to circumstances.

8. Paragraph 28, as amended, was adopted.

Paragraphs 29-37

9. Paragraphs 29-37 were adopted.

Paragraph 38

10. Miss CHANET said that the word "leader" in the second sentence was unfortunate as it implied a sort of ranking in a human rights league.

11. Mr. HERNDL proposed the following wording: "... that Finland was consistently striving to improve human rights guarantees ...".

12. Paragraph 38 as amended, was adopted.

Paragraphs 39-40

13. Paragraphs 39-40 were adopted.

14. Document CCPR/C/42/CRP.1/Add.4 as a whole, as amended, was adopted.

Spain (CCPR/C/42/CRP.1/Add.5

Paragraphs 1-14

15. Paragraphs 1-14 were adopted.

Paragraph 15

16. Mr. ANDO (Rapporteur) proposed the insertion of the words "United Nations" before the words "General Assembly" at the end of the paragraph.

17. Paragraph 15, as amended, was adopted.

Paragraphs 16-40

18. Paragraphs 16-40 were adopted.

Paragraph 41

19. Mr. WAKO proposed that the words "commanded respect" in the second sentence should be replaced by "deserved respect".

20. Paragraph 41, as amended, was adopted.

Paragraph 42

21. Miss CHANET proposed that the words "the status of the Guardia Civil" in the second sentence should be replaced by "the military nature of the Guardia Civil".

22. Paragraph 42, as amended, was adopted.

Paragraph 43

23. Paragraph 43 was adopted.

24. Document CCPR/C/42/CRP.1/Add.5 as a whole, as amended, was adopted.

Ukrainian Soviet Socialist Republic (CCPR/C/42/CRP.1/Add.6)

Paragraphs 1-31

25. Paragraphs 1-31 were adopted.

Paragraphs 32-34

26. Mr. ANDO (Rapporteur) proposed amending the heading of paragraphs 32-34 to read "Freedom of religion and expression: prohibition of propaganda for war and incitement to national, racial and religious hatred".

27. Paragraphs 32-34, as amended, were adopted.

Paragraphs 35-37

28. Mr. ANDO (Rapporteur) proposed amending the heading of paragraphs 35-37 to read "Freedom of Assembly and Association".

29. Paragraphs 35-37, as amended, were adopted.

Paragraphs 38-43

30. Paragraphs 38-43 were adopted.

31. Document CCPR/C/42/CRP.1/Add.6 as a whole, as amended, was adopted.

Morocco (CCPR/C/42/CRP.1/Add.7)

Paragraph 1

32. Mr. ANDO (Rapporteur) proposed the replacement of the final words of paragraph 1 "(and at its ... meeting held on ...)" by the following passage:

> "Since it was not possible during the time available at the fortieth session of the Human Rights Committee to complete consideration of the report, with the agreement of the Government of Morocco, the Committee decided to continue with its consideration at the forty-second session. At that session, however, owing to circumstances beyond its control, the Committee was unable to do so and decided to defer consideration of the report until its forty-third session. The discussion of the report at the Committee's fortieth session is reflected in paragraphs ... [to be included later] of the summary records."

33. The CHAIRMAN said that it was most important to bring out the fact that a request for further postponement had been made by the delegation of Morocco. He read out from the summary record the statement which he had made at the time.

34. Mr. ANDO (Rapporteur) said that, in the light of the Chairman's comment, the words "owing to circumstances beyond its control, the Committee was unable to do so and" should be replaced by the words "as a result of a request submitted by the delegation of Morocco, the Committee".

35. Paragraph 1, as amended, was adopted.

Paragraphs 2-7

36. Paragraphs 2-7 were adopted.

Paragraph 8

37. Mr. ANDO (Rapporteur) said that the fourth sentence in paragraph 12 was similar in content to the eighth sentence of paragraph 8, and he therefore suggested that the latter sentence should be deleted.

38. Paragraph 8, as amended, was adopted.

Paragraphs 9-18

39. Paragraphs 9-18 were adopted.

Paragraphs 19-23

40. Mr. WENNERGREN said, with regard to the reference to General Oufkir's family in paragraphs 20 and 22, that the text should be redrafted to reflect what had actually taken place, namely that members had inquired about the fate of the General's family.

41. Mr. ANDO (Rapporteur) read out excerpts from the summary record of the meeting at which Mr. Aguilar Urbina had put the questions reflected in the draft annual report.

42. After a discussion in which Mr. WENNERGREN and Mr. AGUILAR URBINA took part, Mr. ANDO (Rapporteur) suggested the following text, which would replace the part of paragraph 20 concerning the Oufkir family: "whether, in respect of the disappearance of the Oufkir family, those responsible had been identified and convicted and compensation awarded".

43. Miss CHANET, referring to paragraph 23, noted that the representative in question had actually said that in his list of prisons under the prison administration there was nothing under that name.

44. After an exchange of views in which Mr. AGUILAR URBINA, Mr. ANDO (Rapporteur) and Miss CHANET took part, the CHAIRMAN suggested that in the third sentence of the paragraph, the words "in the list of places of detention" should be inserted between the words "prison" and "under".

45. Paragraphs 19-23, as amended by Mr. Ando and the Chairman, were adopted.

Paragraphs 24-26

46. Paragraphs 24-26 were adopted.

Paragraphs 27-28

47. In response to a point raised by Miss CHANET, the CHAIRMAN suggested that in the sixth sentence of paragraph 27, the word "incommunicado" should be deleted but that it should be retained in the seventh sentence of paragraph 28 in order to reflect the actual statement of the Moroccan delegation.

48. Paragraphs 27-28, as amended, were adopted.

Paragraph 29

49. Paragraph 29 was adopted.

50. Mr. ANDO (Rapporteur), referring to the possibility of adding a final paragraph, said that it had already been explained why the section of the report concerning Morocco was in the form it was and he did not therefore consider it necessary to insert anything further. He noted that there was no addendum 8, which had originally been intended to cover the second part of the consideration of the Morocco report.

51. In reply to a question by Mr. Aguilar Urbina concerning paragraph 22, Mr. ANDO (Rapporteur) confirmed that the replies of the Moroccon delegation concerning the Oufkir family implied that it was an internal matter.

52. The CHAIRMAN said in that connection that the Spanish version of paragraph 22 would be brought into line with the original text.

53. Document CCPR/C/42/CRP.1/Add.7 as a whole, as amended, was adopted.

India (CCPR/C/42/CRP.1/Add.9)

54. Document CCPR/C/42/CRP.1/Add.9 was adopted.

United Kingdom of Great Britain and Northern Ireland (CCPR/C/42/CRP.1/Add.11)

Paragraphs 1-60

55. Paragraphs 1-60 were adopted.

Paragraph 61

56. Miss CHANET suggested that the reference in the second sentence to "the prolonged application of many of the emergency measures" in Northern Ireland should be strengthened somewhat to reflect more accurately the concern she had expressed. Moreover, the subsequent reference in that paragraph to paragraph 5 of article 14 of the Covenant seemed unduly restrictive.

57. Mr. ANDO (Rapporteur) suggested the deletion of "paragraph 5".

58. The CHAIRMAN suggested that the phrase referred to by Miss Chanet should be replaced by wording such as "the number of emergency measures and their prolonged application".

59. Paragraph 61, as amended by Mr. Ando and the Chairman, was adopted.

Paragraphs 62-64

60. In reply to a question by Mr. SADI concerning deportation without the right of appeal, Mr. ANDO (Rapporteur) said that, while concern had been expressed in relation to deportation in the context of Hong Kong, no mention had been made of the effect of the Gulf War on British migration procedures.

61. Paragraphs 62-64 were adopted.

62. Document CCPR/C/42/CRP.1/Add.11 as a whole, as amended, was adopted.

Panama (CCPR/C/42/CRP.1/Add.12)

63. Mr. PRADO VALLEJO said that he wished to enter a reservation with respect to document CCPR/C/42/CRP.1/Add.12 in regard both to substance and to form. Many of the questions which he had put at the time of the consideration of the second periodic report of Panama did not appear in the draft annual report, the reason being that they had not originally been adequately reflected in the summary records of the relevant meetings (CCPR/C/SR.1051-SR.1054).

64. The questions which he had put at the time, many of which had either not been answered at all or not answered satisfactorily, concerned, inter alia: procedures within the constitutional and legal framework in the context of the United States invasion of the country; the situation during the period of the invasion when the Commander of the United States base had been in charge and neither Panamanian nor United States legislation had prevailed; compensation for Panamanian citizens who had suffered losses as a result of bombardment, particularly in the poorer areas; investigation and compensation to families in connection with three common graves discovered at the time of the invasion; rehousing and construction programmes; the isolation of the diplomatic community in Panama at the time of the invasion and the failure to provide safe conducts; the situation of exiles expelled from Panama; the banning of trade unions; and the prohibition of public demonstrations.

65. Mr. ANDO (Rapporteur) said the relevant summary records showed that Mr. Prado Vallejo had indeed raised many points, most of which had not been answered but had simply been refuted by the Panamanian delegation. During the course of meetings, as in the case to which Mr. Prado Vallejo was referring, some or many questions put by members of the Committee remained unanswered, and in drafting the report an effort was made to reflect the situation. It would indeed seem that some of the questions raised by Mr. Prado Vallejo in connection with the report of Panama were not reflected in the draft annual report as it stood.

66. Mr. WAKO requested guidance on which categories of questions were included in and which were omitted from the annual report. It seemed to him important that even questions which were not answered should be reflected in the report so as to make it clear which questions had been asked and which had been answered or had remained unanswered. Moreover, such an approach would mean that questions which had remained unanswered could be taken up again in the context of a subsequent periodic report.

67. The CHAIRMAN said that in his own view, as a general principle, the annual report should reflect the questions asked and the replies given; where no replies were given, naturally, only the question would appear.

68. He suggested that Mr. Prado Vallejo might be invited to prepare a list of the questions he had posed and which he wished to see reflected in the report, for submission at the next meeting.

69. Mr. AGUILAR URBINA and Mr. SERRANO CALDERA endorsed that suggestion.

70. It was so decided.

Sri Lanka (CCPR/C/42/CRP.1/Add.13)

Paragraphs 1-2

71. Paragraphs 1-2 were adopted.

Paragraph 3

72. Miss CHANET proposed on behalf of Mr. Lallah, absent from the meeting room on Committee business, the replacement of the words "available to individuals" in the tenth line by "envisaged in the Covenant".

73. Mr. ANDO (Rapporteur) suggested that both the original wording and the proposed replacement were superfluous and proposed that neither should be included in the text.

74. It was so decided.

75. Paragraph 3, as amended, was adopted.

Paragraph 4

76. Miss CHANET proposed on behalf of Mr. Lallah the insertion, after "state of emergency;" in the third line, of the following: "whether these derogations were compatible with article 4 of the Covenant and whether the declaration of the state of emergency had been notified under that article;".

77. The CHAIRMAN submitted that the compatibility of the derogations with article 4 had been a matter for the Committee itself to decide and not the subject of a question to the representative of the State party. On the other

hand, the second part of Mr. Lallah's proposal seemed acceptable, but might be reworded to read "and whether the declaration of the state of emergency had been duly notified to the Secretary-General under article 4;".

78. Paragraph 4, as amended by the Chairman, was adopted.

Paragraph 5

79. Miss CHANET proposed on behalf of Mr. Lallah the insertion, after the words "the rights of women and children" in the seventh and eighth lines, of the following text: "and, if so, what action the Government proposed to take in order to give effect to the provisions of the Covenant in this regard;".

80. Paragraph 5, as amended, was adopted.

Paragraphs 6-36

81. Paragraphs 6-36 were adopted.

Paragraphs 37-38

82. Miss CHANET asked whether one or two important concluding observations had not been omitted from the report: she was thinking particularly of the concern expressed that the Prevention of Terrorism Act might in reality be leading to a permanent state of emergency.

83. Mr. ANDO (Rapporteur) said that, according to the summary records, Mr. Myullerson had spoken of the difficulties caused by the emergency measures and had referred particularly to the excessive use of force by the authorities and to disappearances; Miss Chanet had suggested that the interpretation of "terrorism" in the Act seemed far too broad and had noted the absence of provisions for recourse to an impartial court. He suggested that any similar or additional concerns might be reflected in the report by the insertion, after "habeas corpus" in the third sentence, of the phrase "restrictions of rights due to the state of emergency,".

84. Paragraphs 37-38, as amended by Mr. Ando, were adopted.

85. Document CCPR/C/42/CRP.1/Add.13 as a whole, as amended, was adopted.

Sudan (CCPR/C/42/CRP.1/Add.14)

Paragraphs 1-6

86. Paragraphs 1-6 were adopted.

Paragraph 7

87. Mr. WENNERGREN asked whether it was correct to refer, as the text did, to "judicial amputation".

88. Mr. ANDO (Rapporteur) said that what was obviously meant was amputation as a legal sanction; he suggested that the word "judicial" should be deleted from the paragraph.

89. Paragraph 7, as amended, was adopted.

Paragraphs 8-30

90. Paragraphs 8-30 were adopted.

91. Document CCPR/C/42/CRP.1/Add.14 as a whole, as amended, was adopted.

92. The CHAIRMAN invited the Committee to consider the draft annexes, pending the distribution in all the languages of the remaining material for the main body of the report.

Annex I. States that have ratified or acceded to the International Covenant on Civil and Political Rights and to the Optional Protocols and States that have made the declaration under article 41 of the Covenant as at 26 July 1991 (CCPR/C/42/CRP.1/Add.20)

93. Mr. WENNERGREN queried the entries relating to Germany in section D and asked what was the exact situation.

94. Mrs. KLEIN (Secretary of the Committee) drew attention to footnote 3. The Federal Republic of Germany had signed but not ratified the Second Optional Protocol. The former German Democratic Republic had both signed and ratified it before unification with the Federal Republic of Germany. It was the opinion of the Legal Counsel that the ratification by the German Democratic Republic, registered while that State was in existence, counted for the purposes of the entry into force of the Second Optional Protocol. Thus, while that entry into force had duly taken place on 11 July 1991, three months after the date of deposit with the Secretary-General of the tenth instrument of ratification or accession, there were currently only nine States parties.

95. Annex I was adopted.

Annex II. Membership and officers of the Human Rights Committee, 1991-1992 (CCPR/C/42/CRP.1/Add.20)

96. Annex II was adopted, subject to two editorial corrections.

Annex III. Agenda of the fortieth, forty-first and forty-second sessions of the Human Rights Committee (CCPR/C/42/CRP.1/Add.20)

97. Annex III was adopted.

Annex IV. Submission of reports and additional information by States parties under article 40 of the Covenant during the period under review (CCPR/C/42/CRP.1/Add.21)

98. Mrs. KLEIN (Secretary of the Committee) said that in section K, the dates 17 July 1991 and 23 July 1991 should be inserted as the dates of submission, respectively, of the second periodic reports of Peru and Luxembourg.

99. Annex IV was adopted, subject to those insertions.

Annex V. Status of reports considered during the period under review and of reports still pending before the Committee (CCPR/C/42/CRP.1/Add.21)

100. Mrs. KLEIN (Secretary of the Committee) said that in sections B and C, blanks in the fourth column relating to Madagascar, Jordan and Iraq should be completed with the numbers of the meetings at which the reports of those countries had been considered.

101. Annex V was adopted on that understanding.

Annex X. List of Committee documents issued during the reporting period (CCPR/C/42/CRP.1/Add.24)

102. Mr. HERNDL asked whether it was necessary to distinguish by separate subheadings the sessions at which the different documents had been issued.

103. The CHAIRMAN agreed with that view and suggested that the subheadings should be deleted.

104. Annex X, as amended, was adopted.

The meeting rose at 6.05 p.m.